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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,117	12/15/2003	Lennart J. Brandel	7343-1	3626

7590

08/23/2006

JOHNS MANVILLE
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10100 West Ute Avenue
Littleton, CO 80127

EXAMINER

SINGH, ARTI R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,117

Applicant(s)

BRANDEL ET AL.

Examiner

Ms. Arti Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/16/06 has been entered.
2. The Examiner has carefully considered Applicant's the newly entered amendments and accompanying remarks. The amendment to Claim 11, still does not make it an article claims and will stand restricted with all the other method claims, as it requires methodical steps that are not required to formulate the specific article at hand. Therefore, please correct the status identifier of said claim in response to this action. Currently, the claims that are under prosecution at this time are claims 1, 3, 4, 6, 7 and 11; and 12-19 withdrawn. All previously made rejections are now withdrawn in light of Applicant's remarks and filing of the Terminal Disclaimers.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 4, 6, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either USPN 6291011 B1 issued to Edlund or USPN 6759116 B2 issued to Edlund in view of USPN 6267151 issued to Moll.

USPN 6291011 B1 issued to Edlund teaches a glass fiber wall covering coated with hydrophilic and hydrophobic agents (abstract). The composite of Edlund may be woven of glass fibers (column 2, line 34). Preferred yarns include, for the warp direction continuous c-glass or e-glass of 9-10 microns, 139-142 texturized with approximately 315-340 ends per meter. An alternative warp yarn is continuous c-glass or e-glass of 6-9 micron, 34-68 tex with 680 ends per meter. For the weft direction, a preferred glass is discontinuous spun e-glass or c-glass, 8-11 micron, 165-550 tex with about 170-600 ends per meter. An alternative weft yarn includes continuous volumized e-glass or c-glass of 8-11 micron, 165-550 tex with about 170-600 ends per meter. Relatively flat woven surfaces are preferred, with minimal Relief (pattern) (column 2, line 65-column 3, line 10). As shown in Table 1 and column 3, the glass fabric is impregnated with a starch and polymeric binder.

USPN 6759116 B2 issued to Edlund discloses a glass fabric is a woven product that incorporates fiberglass yarn. The weave is typically a simple weave pattern of up to eight shafts. The weave can be produced, for example, on Dornier weaving machines, Rapiers or Air-Jets, in typically two or three meter widths for collecting on roll beams of typically 1,500 to 6,000 meters in length of untreated woven fiberglass fabric. Many fiberglass yarns may be selected for use when producing the woven materials for use in the present invention. Preferred yarns include, for the warp direction are continuous C-glass or E-glass of 9 to 10 microns, and 139 to 142 tex with approximately 315 to 340 ends per meter. An alternative warp yarn is formed from continuous C-glass or E-glass of 6 to 9 microns, 34 to 68 tex with approximately 680 ends per meter. For the weft direction, a preferred glass is discontinuous spun E-glass or C-glass, 8 to 11 microns, and 165 to 550 tex with approximately 170 to 600 ends per meter. An alternative weft yarn includes continuous volumized E-glass or C-glass of 8 to 11 microns and 165 to 550 tex with approximately 170 to 600 ends per meter (Column 2,

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lines 35-24). Said composite may be impregnated with a starch +polymeric binder (column 3 and Table 1).

Both of the Edlund references fail to teach Applicant's desired titer and ends for the warp and weft. It is the position of the Examiner that increasing or decreasing the titer is a result effective variable and that although it may be desirable to possess the highest strength with the highest flexibility, a skilled artisan would have to sacrifice one for the other because the two are inversely related in terms of titer. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to vary the titer of either the warp or the weft to be either 30-75 or 190 to 350. One would have been motivated to do this as it is well known to a skilled artisan that titer determines resultant properties such as strength, durability, flexibility and overall appearance of textile and end product, and since it has been held that discovering an optimum value of a result effective variable, in this case-titer, would only involve routine skill in the art, and in this instance one would desire a wall covering which was strong yet flexible. Additionally, the disclosure of MOLL USPN 6267151 further evidences that varying the titer for its resultant end properties is well known in the art.

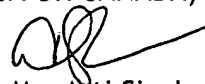
With regard to the number of ends per cm, it is the position of the examiner that this too is a result effective variable and would also effect the flexibility as the number of ends in a weave determines the cover factor and could either create a loose weave or a tight weave resultant on the desired end result. Thus a person having ordinary skill in the art at the time the invention was made would have found it obvious to varied the end per cm in a specific direction or plane of the textile motivated by the desire to make a textile that is flexible or permeable.

Additionally, it should be noted that the warp fibers of any textile could be considered to be the weft fibers of a textile. The warp and the weft fibers are essentially names given the machine and cross machine direction of the weave of the fibers as they leave the looms. Once the final product is completely off the weaving loom, a skilled artisan would not be able to distinguish which fibers are the warp and which are the weft when initially woven. Thus, keeping this teaching in mind, the aforesaid cited art meets all of Applicant's desired limitations whether referred to as warp or weft.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-T 9-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ms. Arti Singh
Primary Examiner
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